

# INTERAGENCY ADVISORY GROUP

UNITED STATES CIVIL SERVICE COMMISSION  
OFFICE OF THE EXECUTIVE DIRECTOR  
WASHINGTON, D.C. 20415

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## SUMMARY OF 314th MEETING

September 23, 1976

**Secretariat**

Room 1304—1900 E St., N.W.  
Code 101, Ext. 26266 or  
Area Code 202—632-6266

### I. Status of Personnel Management Legislation

Opening this session of the IAG, Mr. Jacobson discussed the status of personnel management legislation.

#### Legislative and Executive Pay

The Congress has approved the conference report on the Legislative Appropriations bill which will prevent the Executive Schedule, Congress and Federal Judges from benefiting from the October pay raise. In a letter to Chairman Henderson, Committee on Post Office and Civil Service, the Comptroller General is of the opinion "that pay increases to General Schedule employees and those linked to a particular rate of the Executive Schedule would not be affected by the appropriation restriction." The Commission's General Counsel and the Office of Management and Budget agree with this interpretation. The language of the conference report does not prevent the quadrennial pay adjustment from taking effect in the spring if neither house disapproves at that time.

Assuming that the President signs this bill, and Congress takes no new action, some persons in the higher steps of the General Schedule will be making more than persons in the Executive Schedule, Level 5 after the October pay raise takes effect.

#### Increases in Annuities and Repeal of the 1% "kicker"

The same conference report repealed the automatic extra 1 percent that annuitants receive each time a cost-of-living increase takes place. In its place conferees accepted a new method of computing increases. An adjustment of annuities would take place twice each year, if the Consumer Price Index has risen since the date of the previous increase in annuities. The adjustment will be the same percentage as the increase in the CPI in that period of time.

#### Sunshine Act

The President has signed into law the Sunshine Act which provides for open meetings of certain agencies and Commissions where decisions are made by a collegial body of two or more members, including the Civil Service Commission.

The law makes specific provisions requiring open meetings, advance notice of meetings, procedures for closing meetings and providing transcripts for parts of closed meetings that are not covered by exemptions prohibiting disclosure of national security matters, of those governing national financial policies, or internal personnel matters.

## II. Task Force on Merit Staffing Review Recommendations

Mr. Jacobson introduced Arch S. Ramsay, Director, Bureau of Recruiting and Examining, who gave an update on progress of the Task Force on the Merit Staffing Review Recommendations. On June 17, 1976, Mr. Ramsay reported to the IAG on the formation of a Task Force on Merit Staffing Review Recommendations. The mission of the Task Force is to prepare proposals for carrying out the recommendations of the Merit Staffing Review Team. The Task Force included both selected bureau directors from within CSC, and selected personnel directors (Agriculture, Army, and NLRB)...

The Task Force split its project into ten specific tasks. Mr. Ramsay reported the status of work on each task. In general terms, each subgroup has produced an analytical report, and a set of recommendations, except one subgroup which will complete this phase early in October. The Task Force has discussed each subgroup report and determined which ideas it endorses and which proposals it wants to get more comments on.

Some of the Task Force papers have been sent to CSC bureaus, offices, and regions for review; some are being sent to agencies represented on the IAG Staffing Committee before the Task Force determines its final position on them.

Mr. Ramsay noted that earlier announcements about the Task Force inspired some agencies to send in ideas pertaining to its studies. He invited agencies with thoughts to contribute to contact him, or one of the agency members of the Task Force (Mr. Beeson, Mr. Brandon, or Mr. Pranger). In addition, he pointed out that some of the papers of the Task Force will be sent to agencies for review and comment after the Task Force has presented its conclusions to the Executive Director and the Commission and they have authorized the Task Force to get the views of agencies and unions before casting the papers into final form.

This is a multiphased effort that will produce a variety of action steps aimed at strengthening the merit system and making it less vulnerable to abuse.

## III. Comptroller General Decision on Official Time for Representational Functions and Evaluation of the Agreement Content Evaluation Project

Mr. Jacobson introduced Anthony F. Ingrassia, Director, Office of Labor-Management Relations, who began his discussion with the announcement that CSC's guidance to implement the Comptroller General's September 15, 1976, Decision B-156287 on official-time representation had been mailed to the Personnel Directors. It is contained in an advance edition, dated September 24, 1976, of FPM Letter 711-120: Guidance and Advice on the Use of Official Time for Employee Representational Functions. It includes, as attachments, the text of the Comptroller General's three decisions on the issue.

In effect, the September 15 decision rescinds the earlier limitation on use of official time for such purposes, and defers to Commission guidance in FPM Letter 711-120. That guidance defines what is covered under "representational functions," provides criteria for determining what is reasonable without setting numerical limits on the amount of official time, and requires agencies to issue implementing policies and regulations -- including record-keeping systems where they do not already exist. He reminded agencies of their obligation to consult or negotiate, as appropriate in issuing the required policies and regulations. Mr. Ingrassia cautioned, however, that if agency implementing regulations imposed absolute limits, they would be inconsistent with the Commission's guidance and probably in violation of the Federal Labor Relations Council's Elmendorf doctrine.

As far as union representation is concerned, he summarized, the matter is left to negotiation, within the parameters of CSC guidance and agency implementing policies and regulations. At the same time, he advised, it should provide justification for legitimate management positions at the bargaining table, before the Impasses Panel and in arbitration where the issue is involved.

Turning to the area of negotiations generally, Mr. Ingrassia described accomplishments during FY-76 and plans for FY-77 in the project to provide increased coordination among, and guidance to, agency management using information available from the LAIRS file as a base. He referred to the October 1975 meeting, at which time he reported on the early results of the pilot phase of a cooperative OLMR/agency effort to deal with policy aspects of emerging issues in labor-management negotiations by providing useful guidance for agencies to apply in negotiating agreements. The initial product of that effort, a paper on merit promotion, was distributed at that time. Since the October meeting OLMR, working closely with a group of personnel and labor relations directors from eight agencies, has issued reports on occupational safety and health, grievance and arbitration, and equal employment opportunity. Additional studies on union representation and work assignment and scheduling are currently in progress.

In order to evaluate this joint effort, OLMR recently asked those agencies that have been regularly receiving the material for their assessment of the material developed to date. The responses have been analyzed and discussed with the group of personnel officers and labor relations directors directly involved.

Mr. Ingrassia was pleased to report that the responses were uniformly positive and that all of the agencies that had an opportunity to apply the material to negotiation had found it extremely valuable. The results clearly demonstrate the effectiveness of cooperative efforts involving CSC and agency labor relations staffs and the high quality of the guidance that can be produced when agency officials with day-to-day labor management responsibility are directly involved in its development.

As a result of the evaluation, the project will be continued with few changes. The most significant change will be an effort to update the material already developed to reflect recent developments and trends in negotiations. Agencies, of course, are free to adapt material to their own particular needs and circumstances.

Agencies suggested several subjects for review during the upcoming year, and the following have been selected:

- Facilities and Services to Unions
- Facilities and Services for Employees
- Provisions Related to Pay
- Leave Administration

In concluding his remarks, Mr. Ingrassia reported that Federal District Judge Gesell (D.C.) had issued a decision September 22, 1976, to overturn the unfair labor practice finding against the National Treasury Employees Union for picketing two IRS Service Centers in a bargaining dispute with management. Based on a quick, first reading of the decision, Mr. Ingrassia said that Judge Gesell rejected the union's argument that the Executive Order ban on all picketing, including so-called "informational picketing" in a labor-management dispute was an unconstitutional denial of First Amendment rights. However, he found that the application of the ban on picketing in the circumstances of this case was overbroad and unduly interfered with free expression in contravention of the First Amendment. Judge Gesell concluded:

1. Where the Government can further its interest by lesser restraint at little or no added inconvenience, it must do so.
2. Government can prohibit picketing, even if it is peaceful or informational, which actually interferes with operations, but it cannot bar all picketing just because some picketing is subject to restraint.

Accordingly, Judge Gesell suggested that the Federal Labor Relations Council -- which had upheld the Assistant Secretary's unfair-labor-practice finding and order in this case -- can delineate more precisely the nature of Government operations which must be protected under various circumstances through rule-making. The Government will have 60 days in which to appeal the decision, Mr. Ingrassia noted -- a decision that will be made by the Justice Department after consultation with appropriate parties.

#### IV. Class Action Proposals

Mr. Jacobson introduced Anthony W. Hudson, Director, Office of Federal Equal Employment Opportunity, who discussed class action proposals.

##### Background

The Commission, upon receiving a court order on December 10, 1975 in the case of Barrett vs CSC, began work which resulted in draft proposals on February 24, 1976 for public comment.

A limited distribution was provided on a second draft on June 21, 1976 to the IAG Subcommittee on Discrimination Complaints.

Since June we have been working with staff offices and outside organizations to produce final proposals for the Commission.

The class proposals have been examined in relation to the developing of revisions to the procedures for processing individual complaints.

#### Outline

The proposals provide for complaints directed at discriminatory agency policies and practices which have affected an employee or applicant who files the complaint (agent) with the consent of 10 class members who have been or may be affected by the policies or practices.

When a complaint is accepted, class members would opt-out after receiving notice of the complaint. Counseling, investigation, attempted resolution and decision would make up agency processing. A hearing would be provided upon appeal. Corrective action would consist of systemic relief as well as individual relief when discrimination is found.

The Office of Federal EEO is in final stages of staff work. Comments of agency personnel and EEO staff are appreciated. The proposals are a big step forward into relatively unknown territory.

#### International Personnel Management Association

Mr. Jacobson introduced Enid F. Beaumont, the new director of the Washington office of the International Personnel Management Association, who briefly discussed the Federal agency membership program in IPMA. Ms. Beaumont introduced Ronald J. Fedorowicz, of the Commission's Bureau of Intergovernmental Personnel Programs, as the new President of the D.C. Chapter of IPMA. IPMA is the professional organization of personnel agencies and their staffs in the public sector in the United States and Canada. Federal agency affiliation with IPMA provides personnel directors and their staffs with: up-to-date professional information, a forum for discussing common problems, a means of professional staff development, and an opportunity to advance their agency's objectives through a nationwide network of one thousand agency members. The Washington Office of IPMA is organized primarily to represent the members in matters of Federal legislation and program and to stimulate the exchange and transfer of personnel ideas among Federal, state, and local governments. The primary purpose is accomplished through four basic program areas: I - Legislative and Administrative Representation; II - Assistance to Washington Membership; III - General Washington Liaison with Public Interest Groups; and IV - Special Projects and Research.

The upcoming 1976 IPMA International Conference will be held on November 28-December 2 in Washington, D.C.

Announcements

-- Comments on New Draft of FPM Chapter 335

Last year CSC sent each personnel director a draft revision of FPM chapter 335 for comment. The comments were analyzed and CSC staff subsequently met with a group of agency representatives to clarify your major concerns.

Another draft of chapter 335 was prepared to reflect many of your comments and suggestions. Following are the major changes you will notice:

- o The language of the chapter has been revised to clearly indicate which provisions of the Merit Promotion Program are mandatory and which are guidance. This should be helpful to all agencies in writing their internal plans and especially to those agencies who negotiate portions of their plans with unions.
- o The section defining terms used in the Merit Promotion Program was revised and clarified. Standardized definitions should end the confusion caused by the same terms being used with different meanings in agency plans.
- o Minimum time limits are placed on the use of repromotion consideration, and  
A maximum of three priority considerations is set for corrective actions.
- o The requirement that present and former Federal employees within reach on a register must first rank among the best qualified under internal competitive procedures was dropped. In other words, you will be able to appoint eligibles from a register without going through internal promotion procedures in addition to the competitive requirements of the position.
- o CSC requirements for the use of written tests have been updated and now cover oral and performance tests as well.

Personnel directors will be receiving the revised draft within the next 2 weeks. Because of our urgent need to put out new guidance in this area and since you gave us the benefit of your views on much of the same material last year, we are limiting the period for comments to 30 days. We plan to issue the new chapter in final form shortly after your comments are received and studied.

-- Modification of Central Personnel Data File(CPDF)- Handicap Codes

The implementation of a Governmentwide modification of the CPDF to accommodate the revision of handicap data is a major undertaking by CSC and Federal agencies. In order to establish an accurate and reliable data base, the collection process at the agency level is extremely important. A well informed personnel staff (including personnel director, selective placement coordinators, and other personnel staff assigned to this project) is the key to the success of this program. These roles should be reemphasized. A positive and informative approach in publicizing the purpose for and details of collecting these type

of data within agencies is another important aspect of the project. (This process is outlined well in FPM Letter 290-10, dated September 30, 1976). Emphasis should be placed on ensuring security of information. The purpose and use of "01 code" to assure validity of data for statistical purposes should be thoroughly explained in agencywide survey instructions. Appropriate followup by personnel director to ensure full participation is essential. Close monitoring of individual data forms will ensure accuracy of data input.